

**Executive Summary – Enforcement Matter – Case No. 43856**  
**West Harris County Municipal Utility District No. 7**  
**RN102915840**  
**Docket No. 2012-0680-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

West Harris County MUD 7, located at 20356 Desert Willow Drive, Katy, a point 1.9 miles north of IH-10, approximately 5,500 feet northwest of the intersection of Fry Road and Franz Road on the southwest bank of South Mayde Creek and approximately 5.9 miles northwest of the intersection of IH-10 and State Highway 6, Harris County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 17, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$14,062

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$14,062

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 43856**  
**West Harris County Municipal Utility District No. 7**  
**RN102915840**  
**Docket No. 2012-0680-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** February 2, 2012  
**Date(s) of NOE(s):** March 7, 2012

***Violation Information***

Failed to comply with permitted effluent limitations for ammonia nitrogen, 5-day carbonaceous biochemical oxygen demand, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0012140001, Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to, within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012140001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Jacquelyn Green, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Jeffrey Flinn, President – Board of Directors, West Harris County Municipal Utility District No. 7, 1100 Louisiana Street, Suite 400, Houston, Texas 77002  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	12-Mar-2012	<b>PCW</b>	26-Mar-2012	<b>Screening</b>	23-Mar-2012	<b>EPA Due</b>	
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## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	West Harris County Municipal Utility District No. 7		
<b>Reg. Ent. Ref. No.</b>	RN102915840		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	43856	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-0680-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jacquelyn Green
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$11,250
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	25.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$2,812
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Notes: Enhancement for one NOV with same/similar violations and four months of self-reported effluent violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$614  
Approx. Cost of Compliance \$10,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$14,062
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$14,062
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$14,062
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$14,062
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Screening Date 23-Mar-2012

Docket No. 2012-0680-MWD-E

PCW

Respondent West Harris County Municipal Utility District No. 7

Policy Revision 3 (September 2011)

Case ID No. 43856

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102915840

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations and four months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 25%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 25%

Screening Date 23-Mar-2012

Docket No. 2012-0680-MWD-E

PCW

Respondent West Harris County Municipal Utility District No. 7

Policy Revision 3 (September 2011)

Case ID No. 43856

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102915840

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012140001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as documented in a record review conducted on February 2, 2012, and shown in the attached violation table.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen and five-day carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The values for total suspended solids were also evaluated. The amounts discharged at the time of the violation were significant and did not exceed levels that are protective of human health or the environment.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended for the month of September 2011.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$614

Violation Final Penalty Total \$4,688

This violation Final Assessed Penalty (adjusted for limits) \$4,688

# Economic Benefit Worksheet

**Respondent** West Harris County Municipal Utility District No. 7

**Case ID No.** 43856

**Red. Ent. Reference No.** RN102915840

**Media** Water Quality

**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	30-Sep-2011	21-Dec-2012	1.23	\$614	\$614

**Notes for DELAYED costs**

Estimated cost to evaluate the cause of the non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the anticipated date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$10,000

**TOTAL**

\$614

Screening Date 23-Mar-2012

Docket No. 2012-0680-MWD-E

PCW

Respondent West Harris County Municipal Utility District No. 7

Policy Revision 3 (September 2011)

Case ID No. 43856

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102915840

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0012140001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented in a record review conducted on February 2, 2012, and shown in the attached violation table.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at the time of the violation exceeded levels that are protective of human health or the environment.

Adjustment \$17,500

\$7,500

## Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended for the month of October 2011.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$9,375

This violation Final Assessed Penalty (adjusted for limits) \$9,375

# Economic Benefit Worksheet

**Respondent** West Harris County Municipal Utility District No. 7  
**Case ID No.** 43856  
**Req. Ent. Reference No.** RN102915840  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit is included in Violation No. 1.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



**West Harris County Municipal Utility District No. 7**  
**TPDES Permit No. WQ0012140001**  
**Docket No. 2012-0680-MWD-E**

	<b>Ammonia Nitrogen Daily Average Concentration</b>	<b>Ammonia Nitrogen Daily Maximum Concentration</b>	<b>Ammonia Nitrogen Daily Average Loading</b>	<b>CBOD<sub>5</sub> Daily Average Concentration</b>	<b>CBOD<sub>5</sub> Daily Maximum Concentration</b>	<b>Total Suspended Solids Daily Average Concentration</b>
<b>Months:</b>	<b>Limit = 2 (mg/L)</b>	<b>Limit = 10 (mg/L)</b>	<b>Limit = 8.3 (lbs/day)</b>	<b>Limit = 7 (mg/L)</b>	<b>Limit = 22 (mg/L)</b>	<b>Limit = 15 (mg/L)</b>
September 2011	8.7	17	17	11	24	19
October 2011	17	20	26	c	c	c

mg/L = milligrams per liter

c = compliant

lbs/day = pounds per day

CBOD<sub>5</sub> = five-day Carbonaceous Biochemical Oxygen Demand



# Compliance History Report

Customer/Respondent/Owner-Operator: CN600640684 West Harris County MUD 7 Classification: AVERAGE Rating: 0.19  
Regulated Entity: RN102915840 West Harris County MUD 7 Classification: AVERAGE Site Rating: 0.19

ID Number(s): WASTEWATER PERMIT WQ0012140001  
WASTEWATER EPA ID TX0079618  
WASTEWATER LICENSING LICENSE WQ0012140001

Location: 20356 Desert Willow Drive, Katy, a point 1.9 miles north of Interstate Highway 10, approximately 5,500 feet northwest of the intersection of Fry Road and Franz Road on the southwest bank of South Mayde Creek and approximately 5.9 miles northwest of the intersection of Interstate Highway 10 and State Highway 6 in Harris County, Texas 77449

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: March 26, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 26, 2007 to March 26, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jacquelyn Green Phone: (512) 239 - 2587

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011

Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 06/27/2007 (565434)	6 09/07/2007 (623922)
2 04/20/2007 (585848)	7 09/19/2007 (623923)
3 05/15/2007 (585849)	8 10/19/2007 (623924)
4 06/18/2007 (585850)	9 11/13/2007 (623925)
5 07/18/2007 (585851)	10 12/19/2007 (623926)

11	01/15/2008	(623927)	37	08/19/2010	(829219)
12	02/19/2008	(675063)	38	03/12/2010	(834007)
13	03/20/2008	(675064)	39	04/22/2010	(834008)
14	04/23/2008	(675065)	40	05/19/2010	(834009)
15	05/19/2008	(693419)	41	06/17/2010	(847229)
16	06/16/2008	(693420)	42	07/18/2010	(861681)
17	07/15/2008	(693421)	43	08/30/2010	(868051)
18	08/26/2008	(714671)	44	09/16/2010	(874986)
19	09/22/2008	(714672)	45	10/17/2010	(882593)
20	10/17/2008	(714673)	46	01/03/2011	(885506)
21	11/20/2008	(730614)	47	11/17/2010	(889017)
22	12/11/2008	(730615)	48	12/14/2010	(897384)
23	02/18/2009	(753835)	49	02/16/2011	(928204)
24	03/12/2009	(753836)	50	03/18/2011	(928205)
25	04/20/2009	(753837)	51	04/19/2011	(928206)
26	02/19/2009	(753838)	52	01/17/2011	(928207)
27	05/14/2009	(771209)	53	05/18/2011	(939101)
28	06/10/2009	(771210)	54	06/14/2011	(946483)
29	02/12/2010	(813593)	55	07/15/2011	(953768)
30	08/18/2009	(813594)	56	08/29/2011	(960374)
31	09/18/2009	(813595)	57	09/17/2011	(966430)
32	09/17/2009	(813596)	58	10/17/2011	(972440)
33	10/20/2009	(813597)	59	11/14/2011	(978589)
34	11/16/2009	(813598)	60	03/07/2012	(983215)
35	12/10/2009	(813599)	61	12/20/2011	(985413)
36	01/12/2010	(813600)	62	01/19/2012	(991696)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	09/30/2008	(714673)	CN600640684
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

Date: 08/18/2010 (829219) CN600640684  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 O.R., pg. 9, No. 1 PERMIT  
 Description: Failure to provide a backup blower as required.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 O.R., pg. 9, No. 1 PERMIT  
 Description: Failure to maintain the clarifier.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 O.R., pg. 9, No. 1 PERMIT  
 Description: Failure to maintain the wall between the clarifier and the aeration basin.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 E.L.&M.R., pg. 2, No. 1 PERMIT  
 Description: Failure to maintain compliance with permit limits for Ammonia (NH3N).

Date: 08/31/2010 (874986) CN600640684  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2011 (972440) CN600640684  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2011 (978589) CN600640684  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
WEST HARRIS COUNTY  
MUNICIPAL UTILITY DISTRICT  
NO. 7  
RN102915840**

**§        BEFORE THE  
§  
§  
§        TEXAS COMMISSION ON  
§  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-0680-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding West Harris County Municipal Utility District No. 7 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment facility located at 20356 Desert Willow Drive, Katy, a point 1.9 miles north of Interstate Highway 10,

approximately 5,500 feet northwest of the intersection of Fry Road and Franz Road on the southwest bank of South Mayde Creek and approximately 5.9 miles northwest of the intersection of Interstate Highway 10 and State Highway 6 in Harris County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on February 2, 2012, TCEQ staff documented the following from self-reported monthly discharge monitoring reports ("DMRs"):

	<b>Ammonia Nitrogen Daily Average Concentration</b>	<b>Ammonia Nitrogen Daily Maximum Concentration</b>	<b>Ammonia Nitrogen Daily Average Loading</b>	<b>CBOD<sub>5</sub> Daily Average Concentration</b>	<b>CBOD<sub>5</sub> Daily Maximum Concentration</b>	<b>Total Suspended Solids Daily Average Concentration</b>
<b>Months:</b>	<b>Limit = 2 (mg/L)</b>	<b>Limit = 10 (mg/L)</b>	<b>Limit = 8.3 (lbs/day)</b>	<b>Limit = 7 (mg/L)</b>	<b>Limit = 22 (mg/L)</b>	<b>Limit = 15 (mg/L)</b>
September 2011	8.7	17	17	11	24	19
October 2011	17	20	26	c	c	c

mg/L = milligrams per liter

c = compliant

lbs/day = pounds per day

CBOD<sub>5</sub> = five-day Carbonaceous Biochemical Oxygen Demand

4. The Respondent received notice of the violations on March 12, 2012.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TDPEs") Permit No. WQ0012140001, Effluent Limitations and Monitoring Requirements No. 1.



3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Fourteen Thousand Sixty-Two Dollars (\$14,062) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Fourteen Thousand Sixty-Two Dollar (\$14,062) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Fourteen Thousand Sixty-Two Dollars (\$14,062) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: West Harris County Municipal Utility District No. 7, Docket No. 2012-0680-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012140001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

9/4/12  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of West Harris County Municipal Utility District No. 7. I am authorized to agree to the attached Agreed Order on behalf of West Harris County Municipal Utility District No. 7, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, West Harris County Municipal Utility District No. 7 waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

June 8, 2012  
Date

Jeffrey Flinn  
Name (Printed or typed)  
Authorized Representative of  
West Harris County Municipal Utility District No. 7

President, Board of Directors  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.